

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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The Minutes

April 15, 2002

C036920 THE PEOPLE v. CEJA (Not for Publication)

The judgment is affirmed.

SIMS, J.

We concur: Blease, Acting P.J.
 Nicholson, J.

C037189 THE PEOPLE v. SORIA (Not for Publication)

The trial court's finding that defendant's 1997 assault conviction constituted a "violent" felony under section 667.5, subdivision (a), is reversed and the allegation is dismissed. The trial court's finding that the 1997 assault fell within the meaning of section 667, subdivisions (a) and (b) through (i), and section 1170.12, is affirmed. The sentence is modified to delete the three-year enhancement imposed under section 667.5, subdivision (a) and to impose the five-year enhancement pursuant to section 667, subdivision (a). The trial court is directed to prepare an amended abstract of judgment deleting the enhancement under section 667.5, subdivision (a), adding the enhancement under section 667, subdivision (a), and deleting any reference to an enhancement under section 12022, subdivision (b). The court should then forward a certified copy to the Department of Corrections. The judgment is otherwise affirmed.

DAVIS, J.

I concur: Sims, J.

I concur in the judgment...

Blease, Acting P.J.

C038420 THE PEOPLE v. RHORABOUGH (Not for Publication)

We remand the case to the trial court for the limited purpose of sentencing defendant on count 4, carrying a loaded firearm in a public place.

SIMS, J.

We concur: Blease, Acting P.J.
 Nicholson, J.

C038447 HART v. CASTRO, etc., et al. (Not for Publication)

The judgment of dismissal is affirmed.

SCOTLAND, P.J.

We concur: Sims, J.

Morrison, J.

April 16, 2002

At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Blease, Acting Presiding Justice; Raye, Associate Justice; Morrison, Associate Justice; and Guzman, Bailiff. Calendar Called.

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April 16, 2002, continued

C035618 THE PEOPLE v. COROTAN et al.

Cause called. Michael Sattris, court appointed counsel, argued for appellant Corotan. Kat Kozik, court appointed counsel, argued for appellant Pastrano. Patrick J. Whalen, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:00 a.m., the court recessed. At 10:04 a.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Davis and Associate Justice Raye.

C036710 PEMBERTON v. MYERS et al.

Cause called. Kevin J. Mirch argued for appellants. Timothy W. Pemberton argued for himself in pro per as respondent. Cause submitted.

At 10:16 a.m., the court recessed. At 10:19 a.m., the court reconvened with Acting Presiding Justice Davis, Associate Justice Raye and Associate Justice Morrison.

C037661 LOBO GAMING, INC. v. PIT RIVER TRIBE OF CALIFORNIA et al.

Cause called. John Fredericks, III argued for appellant. Frank R. Lawrence argued for respondents. Cause submitted.

At 10:49 a.m., the court recessed. At 10:54 a.m., the court reconvened with Acting Presiding Justice Raye, Associate Justice Morrison and Associate Justice Hull.

C036893 HOOD v. COUNTY OF AMADOR

Cause called. David M. Ingram argued for appellant. Kathleen M. Abdallah argued for respondent. Cause submitted.

At 11:23 a.m., the court recessed. At 11:26 a.m., the court reconvened with Acting Presiding Justice Raye, Associate Justice Callahan and Associate Justice Kolkey.

C037101 MORADI v. PIMENTEL PRIVATE SECURITY et al.

Cause called. Christopher Terrill argued for appellant. Rayma Church argued for respondents. Cause submitted.

At 11:47 a.m., the court recessed. At 2:00 p.m., the court reconvened with Acting Presiding Justice Raye, Associate Justice Callahan and Associate Justice Kolkey.

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April 16, 2002, continued

C033615 HOLESAPPLE et al. v. AETNA CASUALTY AND SURETY CO.

Cause called. Richard M. Archbold argued for appellants. James A. Askew appeared only. G. Edward Rudloff, Jr. argued for respondent and submitted additional citations. Cause submitted.

C035761 HOLESAPPEL et al. v. BUSBY et al.

Cause called. James A. Askew argued for appellants. Richard M. Archbold appeared only. Eric R. Wiesel argued for respondents. Cause submitted.

C034079 HOLESAPPEL et al. v. BUSBY et al.

Cause called. James A. Askew argued for appellants. Richard M. Archbold appeared only. Eric R. Wiesel argued for respondents. Ulric N. Duverney appeared only. Cause submitted.

C034562 HOLESAPPEL et al. v. BUSBY et al.

Cause called. James A. Askew argued for respondent. Richard M. Archbold appeared only. Eric R. Wiesel argued for appellants. Cause submitted.

At 3:07 p.m., the court recessed until 9:30 a.m., Wednesday, April 17, 2002.

C037655 THE PEOPLE v. GARRETT (Not for Publication)

The judgment is affirmed.

RAYE, J.

We concur: Scotland, P.J.
 Hull, J.

C038483 THE PEOPLE v. COOPER (Not for Publication)

The judgment is affirmed.

ROBIE, J.

We concur: Blease, Acting P.J.
 Raye, J.

C035083 BUSBY v. WHITMER et al. and BRADLEY (Not for Publication)

The judgment is affirmed. Defendants shall recover their costs on appeal. (Cal. Rules of Court, rule 26(a).)

SIMS, J.

We concur: Scotland, P.J.
 Callahan, J.

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At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Sims, Acting Presiding Justice; Raye, Associate Justice; Hull, Associate Justice; and Rios, Bailiff. Calendar Called.

C036887 THE PEOPLE v. ALFARO

Cause called. Charles M. Bonneau argued for appellant. Charles V. Fennessey, Deputy Attorney General, argued for respondent. Cause submitted.

At 9:50 a.m., the court recessed. At 9:52 a.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Davis and Associate Justice Raye.

C036792 YOHANAN v. IRWIN et al.

Cause called. Michael W. Jansen argued for appellants and submitted additional citations. Edward Court McDonald, Jr. argued for respondent. Cause submitted.

C035808 PELLANDINI, JR. v. PELLANDINI et al.

Cause called. Ronald K. Losch argued for appellant. Randy L. Barrow argued for respondent. Mark H. Harris appeared only. Cause submitted.

At 10:37 a.m., the court recessed. At 2:03 p.m., the court reconvened with Presiding Justice Scotland, Associate Justice Hull and Associate Justice Kolkey.

C034976 GARRETSON v. MILLER

Cause called. Joseph P. Meyers argued for appellant. James R. Kirby argued for respondent. Cause submitted.

At 2:32 p.m., the court recessed. At 2:37 p.m., the court reconvened with Presiding Justice Scotland, Associate Justice Davis and Associate Justice Robie.

C038388 ZWICKER v. ALTAMONT EMERGENCY ROOM PHYSICIANS MEDICAL GROUP et al.

Cause called. Rebecca J. Freeman argued for appellant. Matthew C. Mickelson argued for respondent Sutter Tracy Community Hospital. Joseph H. Fagundes argued for respondent Wu. Natasha M. Lucin argued for respondent Altamont. Cause submitted.

At 3:10 p.m., the court recessed. At 3:15 p.m., the court reconvened with Presiding Justice Scotland, Associate Justice Callahan and Associate Justice Robie.

C038341 WILSON et al. v. HANDLEY et al.

Cause called. James L. Pierce argued for appellants and submitted additional citations. Mark D. Corcross argued for respondents. Cause submitted.

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At 3:50 p.m., the court recessed. At 3:55 p.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Davis and Associate Justice Callahan.

C037396 POWELL v. BENSON

Cause called. Lew A. Garbutt argued for appellant. Denise H. Greer argued for respondent. Cause submitted.

At 4:39 p.m., the court recessed until 9:30 a.m., Friday, April 19, 2002.

C034525 THE PEOPLE v. BRANSON (Not for Publication)

The judgment is affirmed.

SIMS, J.

We concur: Scotland, P.J.
 Davis, J.

C038037 THE PEOPLE v. SILAS, JR (Not for Publication)

The judgment is affirmed.

SIMS, Acting P.J.

We concur: Davis, J.
 Morrison, J.

C038672 THE PEOPLE v. GANDY (Not for Publication)

The judgment (order of probation) is affirmed.

RAYE, J.

We concur: Blease, Acting P.J.
 Robie, J.

C038745 THE PEOPLE v. WHITE (Not for Publication)

The portion of the order granting probation that requires defendant to pay \$350 for preparation for the probation report and \$20 per month toward the costs of probation supervision is vacated. The case is remanded to the trial court for the redetermination of probation-related costs as discussed in the opinion. The order placing defendant on probation is otherwise affirmed.

SIMS, J.

We concur: Scotland, P.J.
 Morrison, J.

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April 17, 2002, continued

- C038874 THE PEOPLE v. HICKS (Not for Publication)**
The trial court is directed to prepare a corrected abstract of judgment to reflect its order of victim restitution in the amount of \$370 in case No. CRF97-2816 and to forward a certified copy to the Department of Corrections. The judgment is affirmed.
HULL, J.
We concur: Blease, Acting P.J.
 Robie, J.
- C038811 In re ARIANNA V. et al.; DEPARTMENT OF SOCIAL SERVICES v. KRISTI J. (Not for Publication)**
The judgment of the juvenile court is affirmed.
SIMS, J.
We concur: Scotland, P.J.
 Morrison, J.
- C039614 STATE WATER RESOURCES CONTROL BOARD v. THE SUPERIOR COURT OF YUBA COUNTY and BROWNS VALLEY IRRIGATION DISTRICT et al. (Certified for Publication)**
THE COURT:
The opinion in the above-entitled matter filed March 28, 2002, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered.
Scotland, P.J.
Sims, J.
Robie, J.
- C038331 In re LISAAN S.; DEPARTMENT OF HEALTH AND HUMAN RESOURCES v. WILLIAM S. (Not for Publication)**
C039385
BY THE COURT:
Appellant's petitions for rehearing are denied.
BLEASE, Acting P.J.

April 18, 2002

- C037398 THE PEOPLE v. SINNOTT (Not for Publication)**
The judgment is affirmed.
HULL, J.
We concur: Blease, Acting P.J.
 Morrison, J.

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At 9:46 a.m., the court recessed. At 9:58 a.m., the court reconvened with Acting Presiding Justice Sims, Associate Justice Raye and Associate Justice Hull.

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April 19, 2002, continued

C038026

FRY et al. v. SAENZ, etc.

Cause called. Clare Pastore argued for appellants. Brian Patrick Lawlor appeared only. Paul Reynaga, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:35 a.m., the court recessed. At 10:38 a.m., the court reconvened with Acting Presiding Justice Sims, Associate Justice Raye and Associate Justice Hull.

C024654

THE PEOPLE v. McCOY et al.

Cause called. David McNeil Morse, court appointed counsel, argued for appellant Lakey. Brian G. Smiley, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:46 a.m., the court recessed. At 10:51 a.m., the court reconvened with Acting Presiding Justice Sims, Associate Justice Callahan and Associate Justice Hull.

C035734

RHODES v. RHODES

Cause called. Appellant Jeff Rhodes appeared on his own behalf. Mr. Rhodes was advised of his right to appointed counsel and requested same. Court appointed Bradley Bristow and Mr. Bristow accepted the appointment. No appearance on behalf of Mr. Cooper. Bench warranted ordered issued. Bail set at \$5,000.

At 11:05 a.m., the court recessed until 9:30 a.m., Monday, April 22, 2002.

C029515

THE PEOPLE v. CUCCARO

(Not for Publication)

The judgment is affirmed.

NICHOLSON, Acting P.J.

We concur: Morrison, J.

Kolkey, J.

C037243

THE PEOPLE v. WALLACE-STEPTER

(Not for Publication)

The judgment is modified to reflect imposition of a \$7,000 parole revocation fine under section 1202.45. The superior court is directed to prepare an amended abstract of judgment to reflect total direct restitution of \$1,700, a restitution fine of \$7,000, and a parole revocation fine of \$7,000. The court shall forward a certified copy of the amended abstract to the Department of Corrections. As so modified, the judgment is affirmed.

MORRISON, Acting P.J.

We concur: Callahan, J.

Kolkey, J.

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April 19, 2002, continued

- C037421 THE PEOPLE v. MACK (Certified for Publication)**
The case is remanded to the trial court with directions to amend the abstract of judgment to state that defendant is entitled to conduct credits for the time spent in the state prison prior to the reversal of the judgment of conviction measured by the standards set forth in section 4019, subject to the maximum credit limitations of section 2933.1, but the Department of Corrections shall determine, based upon defendant's performance in prison, the actual credits earned during such confinement. In all other respects the judgment is affirmed. (CERTIFIED FOR PUBLICATION.)
 BLEASE, Acting P.J.
I concur: Hull, J.
I respectfully dissent...
 Kolkey, J.
- C038211 THE PEOPLE v. VIVIAN (Not for Publication)**
The judgment is affirmed.
 ROBIE, J.
We concur: Blease, Acting P.J.
 Raye, J.
- C038442 THE PEOPLE v. GONZALES (Not for Publication)**
C038418
C038438
In case No. 00F01360, the judgment is modified to provide for a concurrent three-year midterm sentence for violation of section 273.5, subdivision (a). In case No. 00F00087, the lab analysis and drug education fees, plus penalty assessments, are deleted, and those fees, plus penalty assessments, are hereby imposed on count 2B in case No. 00F01360. The trial court shall prepare an amended abstract of judgment reflecting these modifications and shall forward a certified copy to the Department of Corrections. The judgment is otherwise affirmed.
 SIMS, Acting P.J.
We concur: Davis, J.
 Hull, J.
- C038800 In re TERRANCE H., JR.; CHILDREN'S SERVICES DIVISION v. MELISSA M. (Not for Publication)**
The orders are affirmed.
 ROBIE, J.
We concur: Sims, Acting P.J.
 Nicholson, J.

April 19, 2002, continued

We concur: Davis, Acting P.J.
Callahan, J.